

WETLANDS COUNCIL

MINUTES

APRIL 8, 2003

The Wetlands Council met on Tuesday, April 8, 2003 at
the Department of Environmental Services, 6 Hazen Dr., Concord, NH

Attendees:

Council Members: Brian Fowler, Mike Dannehy, Camilla Lockwood, Glenn
Normandeau, Bruce Schwaegler
Designees: Sharon Champagne, Ted Diers, Brent Edmonds, William Ingham
Jr., E. William Roy and Thomas Sloan

Unfilled Positions: NH Certified Wetlands Scientists Representative and
Municipal Official

The meeting was called to order by Chairman Brian Fowler at 9:05 a.m.

1. Approval of Minutes of February 11, 2003 Meeting

*A motion was made by Mr. Normandeau to accept the minutes of
February 11, 2003 as presented. Mr. Roy seconded the motion and the
vote was unanimous.*

2. Status of Appeals

- a. Docket No. 00-19 WtC - Conservation Law Foundation: Keene Bypass Appeal
Mr. Sclafani advised that the Supreme Court has accepted the appeal by the
Department of Transportation but a hearing date has not been set by the Court.
- b. Docket No. 01-19 WtC - George Whalley: B 2001-00196, Lake Winnepesaukee,
Gilford
Mr. Sclafani indicated that a permit was approved on March 25, 2003.
However, the appellant disagreed with a component of the permit. The
appellant and DES are currently in settlement discussions.
- c. Docket No. 02-06 WtC – Gorham Supermarket & JC Investors
An appeal has been filed with the Coos County Superior Court by Attorney
Doug Ingersoll on behalf of Gorham Supermarket and JC Investors. Attorney
Anne Edwards filed a motion to dismiss the Wetlands Council as a party to the
appeal and the motion was granted. The Court also ordered that a certified copy
of the record be filed by May 5. Mr. Sclafani will make the filing as soon as he
receives the certified record from the Wetlands Bureau. An appearance has
been filed by Attorney Jack Crisp on behalf of J&M Lumber.

d. Docket No. 02-10/11 WtC – Blakeney Appeal

A hearing notice and Decision & Pre-Hearing Order were distributed to the parties on February 13, 2003 scheduling a hearing for March 11, 2003; a Motion to Continue was filed by Gordon Blakeney on February 20, 2003; Objections to the Motion to Continue were filed by Attorney Smith and Attorney Kinder on February 24 and February 25 respectively. The Motion to Continue was denied on February 25, 2003. A Motion to Reconsider Motion to Continue was filed by Attorney Blakeney on March 5, 2003. A Joint Objection to the Motion to Reconsider was filed on March 6, 2003 by Attorneys Kinder and Smith. On March 10, 2003 Chairman Fowler granted the Motion to Continue and rescheduled the hearing to April 8, 2003. As part of the Pre-Hearing Order, the parties were requested to submit briefs of their arguments which have been received and distributed to Councilors. The hearing will proceed at 9:30 a.m. today.

e. Docket No. 02-13 WtC - John P. and Carole Hoag et al.: WB 2002-00348, Appeal of (Boathouse) Permit of Timothy and Allison Vail – Moultonborough, Squam Lake

A pre-hearing conference has been scheduled for April 8, 2003 at 2:30. An Assented-to Motion to Continue the Pre-hearing Conference was filed by Attorney Cooper on March 6, 2003. The motion was granted and the pre-hearing conference has been rescheduled to July 8, 2003 at 1:30 p.m.

f. Docket No. 02-15 WtC - Conservation Law Foundation: WB 2000-00131 NHDOT, Troy Bypass

A pre-hearing conference has been scheduled for April 22, 2003 at 9:30 a.m.

g. Docket No. 02-16 WtC - Donald S. Thompson: WB 2002-01019

This appeal was accepted by the Council on February 11, 2003. Appearances were filed by Attorney Mark Harbaugh on behalf of DES and Attorney David Osman on behalf of Mr. Thompson. A pre-hearing conference is scheduled for April 8 at 2:00 p.m.

h. Docket No. 02-17 WtC - Timothy L. Whiting: WB 2002-01019

This appeal was summarily dismissed by the Council on February 11, 2003 as untimely filed. The appellant had until March 4 to request reconsideration of the dismissal. No request was received.

i. Docket No. 03-02 WtC – Philip and Judith Mills: WB 2002-00922

This appeal was timely filed on February 24 and is in conformance with the rules. Appearances were filed by Attorneys Amy Mills and Mark Harbaugh on behalf of DES and Attorney Christopher Allwarden on behalf of PSNH.

A motion was made by Mr. Ingham to accept the Mills appeal. Mr. Normandeau seconded the motion and it was unanimously voted.

j. Docket No. 03-03 WtC – Joseph J. Smith: WB 2001-00787

This appeal was timely filed on March 6 and is in conformance with the rules. An appearance was filed by Attorney Mark Harbaugh on behalf of DES. Mr. Normandeau recused himself from the vote on this appeal.

A motion was made by Mr. Edmonds to accept the appeal of Joseph J. Smith. Mr. Schwaegler seconded the motion and it was unanimously voted.

k. Docket No. 03-04 WtC – Aqua Terrace Condominium Assn: WB 2002-00866

This appeal was timely filed on March 10 and is in conformance with the rules. An appearance was filed by Attorney Mark Harbaugh on behalf of DES.

A motion was made by Mr. Schwaegler to accept the appeal. Ms. Champagne seconded the motion and it was unanimously voted.

3. **Permit-by-Notification Rules**

Collis Adams, the Wetlands Bureau Administrator, briefly discussed the status of permit-by-notification rules. The rules have been submitted to OLS and a public hearing will be scheduled once the rules are returned to DES. Mr. Adams advised that the stakeholder process is complete and he has received concurrence from most, if not all, stakeholder groups. The rules will be put on the May Council meeting agenda for discussion. Mr. Adams invited Council members to contact him with their comments. Mr. Dannehy requested a copy of the list of stakeholders, which Mr. Adams will provide.

Mr. Normandeau requested an update on wetlands fees/timeline legislation. Mr. Adams advised that the bill is still in the House Finance Committee and then it will be going to the Senate. The bill provides for an increase to \$.10/sq. ft. with sunseting provisions after three years, \$1.00/sq. ft. for permanent docks, and \$.50/sq. ft. for seasonal docks. Once the application is submitted, an additional fee will be assessed based on the impact of the project on the lake or river bottom. There will be no additional fee for floating structures.

4. **Other Business**

Mr. Fowler advised the Council that Mr. Schwaegler's replacement has been nominated and he expressed his appreciation on behalf of the Council to Mr. Schwaegler for his dedicated service on the Council over the years.

5. **Next Meeting**

The next meeting is scheduled for April 22, 2003.

At 9:20 the Council recessed until 9:30, at which time the Council will hear the Blakeney appeal.

Wetlands Council Meeting Minutes

April 8, 2003

Page 4

The meeting reconvened after the hearing on Docket No. 02-10/11. It was decided to schedule a meeting on April 22, 2003 at 9:00 a.m. for deliberations on this appeal.

The meeting adjourned at 2:45 p.m.